

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

MELODY JOY CANTU and	§	
DR. RODRIGO CANTU,	§	
<i>Plaintiffs</i>	§	
	§	
	§	CASE NO 5:20-CV-00746-JKP (HJB)
	§	
V.	§	
	§	
DR. SANDRA GUERRA and	§	
DIGITAL FORENSICS CORPORATION,	§	
LLC	§	
<i>Defendants</i>	§	<u>JURY DEMANDED</u>

**CO-DEFENDANTS' JOINT ADVISORY TO THE COURT REGARDING
DEFENDANT, DR. SANDRA GUERRA'S MOTION TO ENFORCE SCHEDULING
ORDER AND FOR SANCTIONS AGAINST PLAINTIFFS**

Pursuant to the Court's Order Setting In-Person Hearing [Doc. 75], Defendant, DR. SANDRA GUERRA ("Dr. Guerra"), and Defendant, DIGITAL FORENSICS CORPORATION ("DFC") (collectively, "Co-Defendants"), have conferred with Plaintiffs, MELODY JOY CANTU and DR. RODRIGO CANTU, regarding the specific relief requested in Defendant, Dr. Sandra Guerra's Motion to Enforce Scheduling Order and for Sanctions Against Plaintiffs [Doc. 73] and hereby advise the Court as follows:

1. Co-Defendants have been unable to resolve this matter with Plaintiffs.
2. Plaintiffs and Dr. Guerra attended mediation on August 20, 2021 before engaging in discovery. DFC was not represented by counsel at the time and, therefore, did not participate in such mediation.

3. However, Plaintiffs assert that the contract between Co-Defendants “is at the heart of this case.”¹ Accordingly, Co-Defendants have proposed that Plaintiffs and Co-Defendants all participate in a Zoom mediation with Donald R. Philbin now that DFC is represented by counsel and the parties have engaged in discovery. Nevertheless, Plaintiffs will only agree to mediate with DFC but not with Dr. Guerra.

4. Co-Defendants believe, based upon the claims asserted and relief sought by Plaintiffs in their First Amended Complaint [Doc. 03], any reasonable, good faith opportunity for a successful mediation requires the participation of both Defendants.

5. Plaintiffs cite their “concern[] with spending time, money, and their emotional well-being” as a basis for refusing to participate in a mediation with *both* DFC and Dr. Guerra. However, the proposed mediator, Mr. Philbin, charges the same rate to each party regardless of the number of participants. Plaintiffs will pay the same fee to the mediator regardless of whether it is only DFC or both DFC and Dr. Guerra who participate in the mediation with Plaintiffs. Further, the Zoom mediation proposed by Co-Defendants eliminates the costs of travel (and, if successful, the time and expense of further litigation) and forecloses the possibility of the parties having to see or be in physical presence of one another.

6. In lieu of accepting Co-Defendants’ proposal of participating in a Zoom mediation with both Co-Defendants, Plaintiffs’ counsel advised Co-Defendants that he will fly from New York City to San Antonio to attend the June 23, 2022 in-person hearing ordered by the Court.

¹ Doc. 78, p. 1.

Date: June 17, 2022.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on this 17th day of June 2022, a true and correct copy of the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system which will send electronic notification of such filing to the parties on record.

/s/Ricardo G. Cedillo
RICARDO G. CEDILLO